U.S. Small Business Administration

SBA

Your Small Business Resource

If you have any questions regarding this report, please contact SBA's FOIA Chief Laura Magere at Laura.Magere@sba.gov.

Content of Fiscal Year 2017 Chief FOIA Officer Reports

(High-Volume Agencies)

Delorice P. Ford, Assistant Administrator, Office of Hearings and Appeals

(SBA Chief FOIA Officer)

Section I: Steps Taken to Apply the Presumption of Openness

A. FOIA Training

1.Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice? Yes.

2. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

SBA conducted three FOIA-related trainings during the reporting period:

1. Office of Information Policy FOIA Training Video - Each SBA employee has an account in the agency's Learning Management System (LMS) with a mandatory curriculum of online trainings to be completed once a year. During this reporting period, SBA implemented a change to include the Office of Information Policy's FOIA training video in the LMS as a mandatory requirement for all of the agency's employees.

2. FOIAonline Training – SBA offered training on the FOIAonline system to all employees. CGI Federal, contractors responsible for administering the FOIAonline tracking system, presented a full day training event at SBA headquarters in November 2016.

3. In-House Training with OIP Attorneys - In December 2016, SBA hosted two attorneys from the Office of Information Policy to conduct a half day FOIA training with agency personnel responsible for the agency's FOIA processing. The presenters covered topics including: the FOIA Improvement Act of 2016; Exemptions to the Act; and administrative procedure.

3. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

100%. All SBA employees must complete a FOIA training requirement once a year.

4. OIP has directed agencies to "take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year." If your response to the previous question is less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year. N/A

B. Outreach

5. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?

Yes. A member of SBA's full-time FOIA staff represented the agency at the Chief FOIA Officer meetings and a "Release to One/Release to All" work group hosted by the Office of Management and Budget. The Chief FOIA Officer meetings are well attended by journalists and members of the public. During these meetings, SBA personnel have discussed Open Government progress with the requester community.

6. If you did not conduct any outreach during the reporting period, please explain why. N/A

C. Other Initiatives

7. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. See response to Question #3.

8. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here. No additional initiatives.

A. Processing Procedures

1. For Fiscal Year 2016, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2016 Annual FOIA Report. 4 Days

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less. N/A

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data,

using active workflows and track management, reviewing and updating processing procedures, etc.

Yes. The agency's full-time FOIA staff routinely conducts self-assessments of the program to determine timeliness and quality of the agency's responses. The FOIA team creates custom weekly management reports in the FOIAonline system to assess the timeliness of the agency's responses. More qualitative assessments are achieved by review of all SBA components' final responses. We continuously streamline processes related to intake and assignment, clarification of new requests, and FOIA fee assessment.

4. Please provide an estimate of how many requests your agency processed in Fiscal Year 2016 that were from commercial use requesters. If your agency is decentralized, please identify any components within your agency that received a majority of their requests from commercial use requesters.

The agency received an estimated 40% of its requests during Fiscal Year 2016 from commercial use requesters: bankers, attorneys, and financial lending institutions with commercial interests in SBA's loan programs. SBA's Office of Capital Access receives the majority of their requests from commercial use requesters.

B. Requester Services

5. Does your agency provide a mechanism for requesters to provide feedback about their experience with the FOIA process at your agency? If so, please describe the methods used, such as making the FOIA Public Liaison available to receive feedback, using surveys posted on the agency's website, etc.

In compliance with the FOIA Improvement Act of 2016, the agency's template FOIA correspondence provides requesters with the contact information for the agency's FOIA Public Liaison to discuss any questions or concerns. In addition to directly contacting the FOIA Public Liaison, requesters may also contact the FOIA main telephone number at 202-201-8203 or submit questions, comments, and recommendations to the SBA's FOIA mailbox at: FOIA@SBA.gov. The full-time FOIA staff is available weekdays to give requesters information about the FOIA process and to address customer complaints and concerns.

6. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of how often requesters sought assistance from your agency's FOIA Public Liaison.

The FOIA Public Liaison has received two requests from requesters to address issues at the service center level. We attribute this infrequent use of the FOIA Public Liaison resource to the high level of competence of the agency's FOIA personnel.

7. The FOIA Improvement Act of 2016 requires agencies to make their reference material or guide for requesting records or information from the agency electronically available to the public. Please provide a link to your agency's FOIA reference guide.

https://www.sba.gov/about-sba/sba-performance/open-government/foia/general-foia-information

C. Other Initiatives

8. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as improving search processes, eliminating redundancy, etc., please describe them here.

The full-time FOIA staff maintains regular communication with the attorneys, paralegals, and administrative staff who are responsible to adjudicate the agency's requests. These frequent discussions yield valuable insight on how the full-time FOIA staff can better serve the FOIA personnel who work so diligently (as a collateral duty) to ensure that the agency has a strong access program. For example, in a recent conversation, an agency attorney who adjudicates FOIA requests shared the regional assignments at the service center level to review certain agency record types. Based upon this information, the full-time FOIA staff developed a rule of thumb to more efficiently complete the intake and assignment process for incoming FEMA referrals that include SBA Disaster Assistance documents. This information made it possible for the full-time FOIA team to eliminate an assignment lookup step through an agency FOIA coordinator and make direct assignments to the appropriate FOIA personnel at the service level.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President's and Attorney General's FOIA memoranda focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to

the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

A. Posting Material

1. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

The FOIA team reviews the agency's quarterly FOIA activity numbers for each program office to identify program offices with the highest numbers of FOIA requests. The FOIA team has worked with the program offices with high numbers of FOIA requests to identify the most frequently requested records that should be proactively disclosed on the agency's website.

2. Does your agency have a distinct process or system in place to identify other records for proactive disclosure? If so, please describe your agency's process or system.

SBA has a mission-driven commitment to proactively disclose information about its programs to assist America's entrepreneurs. SBA's program activities routinely publish a wide range of informational tools about how to become an entrepreneur. A few examples of the information posted to the website are: how to develop a business plan; where to identify possible business financing options; and how to compete for government contract awards. There are also announcements and daily publications about SBA program activities that directly benefit the nation's small business owners. SBA's process of identifying the records for proactive disclosure on the www.sba.gov website is simply providing the information to the agency's stakeholders (e.g., entrepreneurs and lending institutions) that will assist our customers and the general public to understand the economic advantages to building and growing American small businesses.

3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

Initially, yes. But the challenges are being addressed and a process to post agency records is now in place.

4. If so, please briefly explain those challenges.

Coordination of effort between cross-functional teams necessary to post agency records; establishing an internal clearance plan to include all levels of agency leadership, and ensuring that all agency records are 508 conformant for posting to the agency's website.

5. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

In the past reporting year, the agency's most significant proactive disclosure postings are SBA's complete loan level 7(a) and 504 data sets and data dictionary from January 1, 1990, to present found here:

https://www.sba.gov/about-sba/sba-performance/open-government/foia/frequently-requested-records/sba-7a-504-loan-data-reports

These data sets represent the agency's most frequently requested information.

6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe those efforts.

As stated in previous responses, the Agency has improved its Open Government and Open Data efforts to increase public access to the Agency's most frequently requested data sets. SBA has publicized its efforts through the Office of the Chief Information Officer's Open Government reporting to OMB, the OHA FOIA team's reporting to OIP, and the revitalization of the Agency's website.

B. Other Initiatives

7. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosure?

N/A

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

A. Making Material Posted Online More Useful

1. Beyond posting new material, is your agency taking steps to make the posted information more useable to the public, especially to the community of individuals who regularly access your agency's website? Yes.

2. If yes, please provide examples of such improvements.

In the last year, the agency has changed the visual appearance of the SBA.gov website. Larger font, easy-to-read white space v. lettering format, improved quality and relevancy of the SBA program content posted are all noticeable improvements. These improvements are a result of collaborative efforts by the Office of Communications and Public Liaison and the Office of the Chief Information Officer.

3. Have your agency's FOIA professionals interacted with other agency staff (such as technology specialists or public affairs or communications professionals) in order to identify if there are any new ways to post agency information online? Yes. The FOIA team collaborated with staff from the Office of the Chief Information Officer, the Office of Communications and Public Liaison, and the Office of Capital Access to proactively disclose the agency's most frequently requested data sets (capital access loan-level data for 7(a) and 504 loan programs.)

B. Use of Technology to Facilitate Processing of Requests

4. Did your agency conduct training for FOIA staff on any new processing tools during the reporting period, such as for a new case management system, or for search, redaction, or other processing tools?

Yes. During the reporting period, the agency hosted a full day of training for new agency FOIA personnel and those desiring a refresher course on the FOIAonline system.

5. Beyond using technology to redact documents, is your agency taking steps to use more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes, describe the technological improvements being made. No.

6. Are there additional tools that could be utilized by your agency to create further efficiencies? No.

C. Other Initiatives

7. Did your agency successfully post all four quarterly reports for Fiscal Year 2016? Yes. All four quarterly reports were posted to the SBA.gov website in accordance with DOJ timelines for posting. The fourth quarter report was posted to the agency's website on October 25, 2016, and it remained there until it was mistakenly removed on March 1, 2017.

8. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2017. SBA posted all four quarterly reports on its website; however, the fourth quarter report was not posted to FOIA.gov. The web address for the fourth quarter posting was inconsistent with the format generated by the FOIAonline system, so it was not captured for posting by FOIA.gov.

SBA's FOIA team met with personnel from the agency's Web Support team. We have devised a plan to ensure that the URLs for reports are consistent and included on FOIA.gov.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The President's FOIA Memorandum and the Attorney General's 2009 FOIA Guidelines have emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2015 Annual FOIA Report and, when applicable, your agency's 2014 Annual FOIA Report.

A. Simple Track

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that

are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests? No.

2. If so, for your agency overall in Fiscal Year 2016, was the average number of days to process simple requests twenty working days or fewer? N/A

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2016 that were placed in your simple track. N/A

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer? Yes.

B. Backlogs

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog.

No. The Agency's FY 2016 backlog did not decrease from FY 2015. However, the number of backlogged cases that SBA reported in both FY 2015 and FY 2016 represent less than 2% of the total cases received for each year. In FY 2015, SBA reported seven backlogged case of 955 FOIA cases received. In FY 2016, SBA reported a slight increase of 21 backlogged cases of a total 1,116 cases received.

6. If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

There was a 100% turnover of the agency's full- time FOIA staff during Fiscal Year 2016. The new team is now developing management strategies to monitor the agency's progress to process requests and to communicate with the agency's FOIA personnel and leadership regarding the need to eliminate the FOIA backlog and maintain strict compliance with the 20-day statutory timeframe for FOIA responses.

7. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests *received* by your agency in Fiscal Year 2016.

21 (# of backlogged requests for FY 2016) ÷ 1116 (# of FY 2016 requests received) = 0.0188 X 100 = 1.8 or <2%

BACKLOGGED APPEALS

8. If your agency had a backlog of appeals at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? Yes.

9. If not, explain why and describe the causes that contributed to your agency not being able reduce backlog. Not applicable. The agency eliminated the FOIA appeals backlog completely during Fiscal Year 2016.

10. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals *received* by your agency in Fiscal Year 2015. If your agency did not receive any appeals in Fiscal Year 2015 and/or has no appeal backlog, please answer with "N/A." N/A

C. Backlog Reduction Plans

Status of Ten Oldest Requests, Appeals, and Consultations: Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

11. In the 2016 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1,000 requests in Fiscal Year 2015 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2016. N/A.

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2016, what is your agency's plan to reduce this backlog during Fiscal Year 2017? N/A

D. Status of Ten Oldest Requests, Appeals, and Consultations

Section VII. E, entitled "Pending Requests – Ten Oldest Pending Requests, "Section VI.C. (5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

13. In Fiscal Year 2016, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2015 Annual FOIA report? Yes.

14. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2016 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. N/A

15. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal? N/A

TEN OLDEST APPEALS

16. In Fiscal Year 2016, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2015 Annual FOIA Report? Yes.

17. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that. N/A

TEN OLDEST CONSULTATIONS

18. In Fiscal Year 2016, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2015 Annual FOIA Report? Yes.

19. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2015 Annual

FOIA Report. If you had less than ten total oldest consultations to close, please indicate that. N/A

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2015. None

21. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending. N/A

22. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2017. N/A

F. Interim Responses

23. Does your agency have a system in place to provide interim responses to requesters when appropriate?

Yes. All SBA FOIA professionals are trained to provide interim responses to requesters in certain circumstances when the complexity of the search and/or volume of responsive records requires the FOIA professional to breakdown the responsive records in smaller batches. SBA's FOIA professionals send interim communications with the records available for release until a final response that completes delivery of all responsive documents can be issued.

24. If your agency had a backlog in Fiscal Year 2016, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed. 100%.

SBA Success Story

Out of all the activities undertaken by your agency since March 2016 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine

Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

- Proactive disclosure of SBA's two most requested data sets. The complete catalog of the agency's loan level data for 7(a) and 504 borrower programs from January 1990, to present.
- Collaboration of the FOIA office staff with the agency's Office of Capital Access (component processes 70% of the agency's total requests) team to communicate about best practices for FOIA and developing disclosure standards for public data found in their program records.
- Hosting a FOIA training presented by two Office of Information Policy attorneys attended by agency FOIA personnel in-person and via teleconference.
- Reporting no backlog of the agency's FOIA appeals.